

(A) End products or components listed in 225.104(a).

(B) Spare or replacement parts that must be acquired from the original foreign manufacturer or supplier.

(C) Foreign drugs acquired by the Defense Supply Center, Philadelphia, when the Director, Pharmaceuticals Group, Directorate of Medical Materiel, determines that only the requested foreign drug will fulfill the requirements.

(iv) Under coordinated acquisition (see Subpart 208.70), the determination is the responsibility of the requiring department when the requiring department specifies acquisition of a foreign end product.

(c) The cost of a domestic end product is unreasonable if it is not the low evaluated offer when evaluated under Subpart 225.5.

[68 FR 15618, Mar. 31, 2003, as amended at 70 FR 2362, Jan. 13, 2005]

**225.104 Nonavailable articles.**

(a) DoD has determined that the following articles also are nonavailable in accordance with FAR 25.103(b):

- (i) Aluminum clad steel wire.
- (ii) Sperm oil.

**225.105 Determining reasonableness of cost.**

(b) Use an evaluation factor of 50 percent instead of the factors specified in FAR 25.105(b).

**225.170 Acquisition from or through other Government agencies.**

Contracting activities must apply the evaluation procedures in Subpart 225.5 when using Federal supply schedules.

**Subpart 225.2—Buy American Act—Construction Materials**

**225.202 Exceptions.**

(a)(2) A nonavailability determination is not required for construction materials listed in FAR 25.104(a) or in 225.104(a). For other materials, a nonavailability determination shall be approved at the levels specified in 225.103(b)(ii). Use the estimated value

of the construction materials to determine the approval level.

[65 FR 19851, Apr. 13, 2000, as amended at 68 FR 15619, Mar. 31, 2003]

**225.206 Noncompliance.**

(c)(4) Prepare any report of noncompliance in accordance with the procedures at 209.406-3 or 209.407-3.

[64 FR 62986, Nov. 18, 1999]

**Subpart 225.4—Trade Agreements**

SOURCE: 65 FR 19852, Apr. 13, 2000, unless otherwise noted.

**225.401 Exceptions.**

(a)(2) If a department or agency considers an individual acquisition of a product to be indispensable for national security or national defense purposes and appropriate for exclusion from the provisions of FAR Subpart 25.4, it may submit a request with supporting rationale to the Director of Defense Procurement and Acquisition Policy (OUSD(AT&L)DPAP). Approval by OUSD(AT&L)DPAP is not required if—

(A) Purchase from foreign sources is restricted by statute (see Subpart 225.70);

(B) Another exception in FAR 25.401 applies to the acquisition; or

(C) Competition from foreign sources is restricted under Subpart 225.71.

[68 FR 15619, Mar. 31, 2003]

**225.401-70 End products subject to trade agreements.**

Acquisitions of end products in the following Federal supply groups (FSG) are covered by trade agreements if the value of the acquisition is at or above the applicable trade agreement threshold and no exception applies. If an end product is not in one of the listed groups, the trade agreements do not apply. The definition of Caribbean Basin country end products in FAR 25.003 excludes those end products that are not eligible for duty-free treatment under 19 U.S.C. 2703(b). Therefore certain watches, watch parts, and luggage from certain Caribbean Basin countries are not eligible products. However,

## 225.402

225.003 expands the definition of Caribbean Basin country end products to include petroleum and any product derived from petroleum, in accordance with Section 8094 of Pub. L. 103-139.

| FSG | Category/Description   |
|-----|--|
| 22  | Railway equipment  |
| 23  | Motor vehicles, trailers, and cycles (except 2350 and buses under 2310)  |
| 24  | Tractors   |
| 25  | Vehicular equipment components   |
| 26  | Tires and tubes  |
| 29  | Engine accessories   |
| 30  | Mechanical power transmission equipment  |
| 32  | Woodworking machinery and equipment  |
| 34  | Metalworking machinery   |
| 35  | Service and trade equipment  |
| 36  | Special industry machinery (except 3690)   |
| 37  | Agricultural machinery and equipment   |
| 38  | Construction, mining, excavating, and highway maintenance equipment  |
| 39  | Materials handling equipment   |
| 40  | Rope, cable, chain and fittings  |
| 41  | Refrigeration and air conditioning equipment   |
| 42  | Fire fighting, rescue and safety equipment   |
| 43  | Pumps and compressors  |
| 44  | Furnace, steam plant and drying equipment (except 4470)  |
| 45  | Plumbing, heating, and sanitation equipment  |
| 46  | Water purification and sewage treatment equipment  |
| 47  | Piping, tubing, hose, and fitting  |
| 48  | Valves   |
| 49  | Maintenance and repair shop equipment (except 4920-4927, 4931-4935, 4960)  |
| 53  | Hardware and abrasives   |
| 54  | Prefabricated structures and scaffolding   |
| 55  | Lumber, millwork, plywood, and veneer  |
| 56  | Construction and building materials  |
| 61  | Electric wire, and power and distribution equipment  |
| 62  | Lighting fixtures and lamps  |
| 63  | Alarm and signal systems   |
| 65  | Medical, dental, and veterinary equipment and supplies   |
| 66  | Instruments and laboratory equipment (except aircraft clocks under 6645)—See FAR 25.003 exclusion of certain watches and watch parts for certain Caribbean Basin countries |
| 67  | Photographic equipment   |
| 68  | Chemicals and chemical products  |
| 69  | Training aids and devices  |

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| FSG | Category/Description  |
|-----|---|
| 70  | General purpose ADPE, software, supplies, and support equipment   |
| 71  | Furniture   |
| 72  | Household and commercial furnishings and appliances   |
| 73  | Food preparation and serving equipment  |
| 74  | Office machines, visible record equipment and ADP equipment   |
| 75  | Office supplies and devices   |
| 76  | Books, maps, and other publications   |
| 77  | Musical instruments, phonographs, and home type radios  |
| 78  | Recreational and athletic equipment   |
| 79  | Cleaning equipment and supplies   |
| 80  | Brushes, paints, sealers, and adhesives   |
| 81  | Containers, packaging and packing supplies (except 8140)  |
| 83  | Pins, needles, and sewing kits (only part of 8315) and flag staffs, flagpoles, and flagstaff trucks (only part of 8345) |
| 84  | Luggage (only 8460)—See FAR 25.003 for exclusion of luggage for Caribbean Basin countries                               |
| 85  | Toiletries  |
| 87  | Agricultural supplies   |
| 88  | Live animals  |
| 89  | Tobacco products (only 8975)  |
| 91  | Fuels, oils, and waxes  |
| 93  | Nonmetallic fabricated materials  |
| 94  | Nonmetallic crude materials   |
| 96  | Ores, minerals, and their primary products  |
| 99  | Miscellaneous   |

[65 FR 19852, Apr. 13, 2000, as amended at 68 FR 15619, Mar. 31, 2003; 69 FR 1927, Jan. 13, 2004; 70 FR 2363, Jan. 13, 2005; 70 FR 73154, Dec. 9, 2005; 71 FR 9270, Feb. 23, 2006]

### 225.402 General.

To estimate the value of the acquisition, use the total estimated value of end products covered by trade agreements (see 225.401-70).

[70 FR 2363, Jan. 13, 2005]

### 225.403 World Trade Organization Government Procurement Agreement and Free Trade Agreements.

(c) For acquisitions of supplies covered by the World Trade Organization Government Procurement Agreement, acquire only U.S.-made, qualifying country, or designated country end products unless—

(i) The contracting officer determines that offers of U.S.-made, qualifying country, or designated country